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10/804,199	03/19/2004	Ken Mashitani	65933-077	6534

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EXAMINER	
POPHAM, JEFFREY D	

ART UNIT	PAPER NUMBER
2137	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/804,199	MASHITANI ET AL.	
	Examiner	Art Unit	
	JEFFREY D. POPHAM	2137	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *11 April 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-27* is/are pending in the application.

4a) Of the above claim(s) *26 and 27* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-25* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *19 March 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *20040319, 20051121*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Remarks

Claims 1-27 are pending, with claims 1-25 rejected herein, and claims 26 and 27 withdrawn from further consideration as set forth in the election/restriction section.

Election/Restrictions

1. Applicant's election of group I (claims 1-25) in the reply filed on 4/11/2008 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 26 and 27 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected inventions, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 4/11/2008.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 8-25 are rejected under 35 U.S.C. 101 because the claims are directed towards non-statutory subject matter. Claim 8 claims that it is a "program", which is purely software, and therefore, fails to fall within a statutory category of invention. Claim 20 claims a "storage medium" storing a program much like the program of claim 8. Although this program is "for providing a computer with a function for displaying...", there is no execution of any function on the computer.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-4, 8-11, and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Swift (U.S. Patent Application Publication 2002/0122585).

Regarding Claim 1,

Swift discloses a 3D image displaying method comprising:

Determining whether a 3D stereoscopic image content can be reproduced as a 3D stereoscopic image (Paragraphs 36-46);

Reproducing the content as a 3D stereoscopic image when it is determined that the content can be reproduced as a 3D stereoscopic image (Paragraphs 36-44); and

Switching to a process for reproducing the content with a restriction when it is determined that the content cannot be reproduced as a 3D stereoscopic image (Paragraphs 36-46).

Regarding Claim 8,

Claim 8 is a program claim that is broader than method claim 1 and is rejected for the same reasons.

Regarding Claim 20,

Claim 20 is a storage medium claim that is broader than method claim 1 and is rejected for the same reasons.

Regarding Claim 2,

Swift discloses that the process for reproducing the content with a restriction is a process for reproducing the content as a 2D image (Abstract; and Paragraphs 45-46).

Regarding Claim 9,

Claim 9 is a program claim that is broader than method claim 2 and is rejected for the same reasons.

Regarding Claim 3,

Swift discloses that the process for reproducing the content with a restriction is a process for reproducing a part of the content as a 3D stereoscopic image (Abstract; and Paragraphs 36-46 and 50-54).

Regarding Claim 10,

Claim 10 is a program claim that is broader than method claim 3 and is rejected for the same reasons.

Regarding Claim 4,

Swift discloses that the process for reproducing the content with a restriction is a process for reproducing the content on which another image is superimposed (Abstract; and Paragraphs 36-46 and 50-54).

Regarding Claim 11,

Claim 11 is a program claim that is broader than method claim 4 and is rejected for the same reasons.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 5, 6, 12-14, 21, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swift in view of White (U.S. Patent Application Publication 2003/0009669).

Regarding Claim 5,

Swift discloses reproducing the content as a 3D stereoscopic image (Paragraphs 36-44), but does not explicitly disclose obtaining a key for reproducing the content when it is determined that the content cannot be reproduced properly.

White, however, discloses obtaining a key for reproducing the content when it is determined that the content cannot be reproduced

properly without such a key (Paragraphs 37-42 and 47-51). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to incorporate the uniquely client-associated content of White into the stereoscopic media delivery system of Swift in order to allow the system to broadcast content to many devices, while maintaining explicit knowledge of which particular client has decrypted the content, thereby providing a way to identify users and/or devices that illegally (or legally) use and/or distribute the content.

Regarding Claim 6,

Swift as modified by White discloses the method of claim 5, in addition, White discloses that the content is encoded by the key, and further comprising decoding the content by using the key in reproducing the content (Paragraphs 37-42 and 47-51).

Regarding Claim 12,

Swift discloses reproducing the content as a 3D stereoscopic image (Paragraphs 36-44), but does not explicitly disclose obtaining a key for reproducing the content by accessing a server which offers the content.

White, however, discloses obtaining a key for reproducing the content by accessing a server which offers the content (Paragraphs 37-42 and 47-51). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to incorporate the uniquely client-associated content of White into the stereoscopic media delivery system

of Swift in order to allow the system to broadcast content to many devices, while maintaining explicit knowledge of which particular client has decrypted the content, thereby providing a way to identify users and/or devices that illegally (or legally) use and/or distribute the content.

Regarding Claim 21,

Claim 21 is a storage medium claim that corresponds to program claim 12 and is rejected for the same reasons.

Regarding Claim 13,

Swift as modified by White discloses the program of claim 12, in addition, White discloses that obtaining the key is performed when it is determined that the content cannot be reproduced (Paragraphs 37-42 and 47-51); and Swift discloses reproducing the content as a 3D stereoscopic image (Paragraphs 36-44).

Regarding Claim 14,

Swift as modified by White discloses the program of claim 12, in addition, White discloses that the content is encoded by the key, and reproducing the content includes decoding the content by using the key (Paragraphs 37-42 and 47-51); and Swift discloses reproducing the content as a 3D stereoscopic image (Paragraphs 36-44).

Regarding Claim 24,

Claim 24 is a storage medium claim that corresponds to program claim 14 and is rejected for the same reasons.

5. Claims 7, 15, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swift in view of White, further in view of Glover (U.S. Patent 6,185,686).

Regarding Claim 7,

Swift as modified by White discloses the method of claim 5, in addition, Swift discloses reproducing the content as a 3D stereoscopic image (Paragraphs 36-44); but does not explicitly disclose that a program for reproducing the content is encoded by the key, and further comprising decoding the program by using the key in reproducing the content.

Glover, however, discloses that a program for reproducing the content is encoded by the key, and further comprising decoding the program by using the key in reproducing the content (Column 8, line 51 to Column 9, line 54; Column 11, lines 38-65; and Column 21, line 61 to Column 22, line 8). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to incorporate the self-decrypting product of Glover into the stereoscopic media delivery system of Swift as modified by White in order to allow the system to protect the program used to reproduce the content, such that only authorized parties may obtain access to such a program via passwords, authorization codes, encryption keys, and the like in addition to the content itself being encrypted, thereby providing an additional layer of security to the system.

Regarding Claim 15,

Swift as modified by White discloses the program of claim 12, in addition, Swift discloses reproducing the content as a 3D stereoscopic image (Paragraphs 36-44); but does not explicitly disclose that a program module for reproducing the content is encoded by the key, and switching the reproduction process includes decoding the program module by using the key.

Glover, however, discloses that a program module for reproducing the content is encoded by the key, and switching the reproduction process includes decoding the program module by using the key (Column 8, line 51 to Column 9, line 54; Column 11, lines 38-65; and Column 21, line 61 to Column 22, line 8). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to incorporate the self-decrypting product of Glover into the stereoscopic media delivery system of Swift as modified by White in order to allow the system to protect the program used to reproduce the content, such that only authorized parties may obtain access to such a program via passwords, authorization codes, encryption keys, and the like in addition to the content itself being encrypted, thereby providing an additional layer of security to the system.

Regarding Claim 25,

Swift as modified by White does not explicitly disclose that a part of the program is encoded using the key and the switching the reproduction process includes decoding the part of the program by using the key.

Glover, however, discloses that a part of the program is encoded using the key and the switching the reproduction process includes decoding the part of the program by using the key (Column 8, line 51 to Column 9, line 54; Column 11, lines 38-65; and Column 21, line 61 to Column 22, line 8). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to incorporate the self-decrypting product of Glover into the stereoscopic media delivery system of Swift as modified by White in order to allow the system to protect the program used to reproduce the content, such that only authorized parties may obtain access to such a program via passwords, authorization codes, encryption keys, and the like in addition to the content itself being encrypted, thereby providing an additional layer of security to the system.

6. Claims 16-19, 22, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swift in view of White, further in view of Cookson (U.S. Patent 6,771,888).

Regarding Claim 16,

Swift as modified by White discloses the program of claim 12, in addition, Swift discloses reproducing the content as a 3D stereoscopic image (Paragraphs 36-44); but does not explicitly disclose an encoded identification code, wherein it is determined whether the content can be reproduced by decoding the encoded identification code by using the key.

Cookson, however, discloses an encoded identification code, wherein it is determined whether the content can be reproduced by decoding the encoded identification code by using the key (Column 19, line 18 to Column 20, line 20; and Column 27, line 51 to Column 28, line 30). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to incorporate the video authorization system of Cookson into the stereoscopic media delivery system of Swift as modified by White in order to allow a piece of content to be authorized for use with particular standards, aspect ratios, and the like, but not others, thereby enabling fine-grained control over which devices and users can access and view the content, in a way that is cryptographically secured, such that illegal content creation and use may be determined easily.

Regarding Claim 22,

Claim 22 is a storage medium claim that corresponds to program claim 16 and is rejected for the same reasons.

Regarding Claim 17,

Swift as modified by White and Cookson discloses the program of claim 16, in addition, Cookson discloses an unencoded identification code as well as the encoded identification code, wherein it is determined whether the content can be reproduced by decoding the encoded identification code by using the key and comparing the decoded identification code with the unencoded identification code (Column 19, line

18 to Column 20, line 20; and Column 27, line 51 to Column 28, line 30) ; and Swift discloses reproducing the content as a 3D stereoscopic image (Paragraphs 36-44).

Regarding Claim 23,

Claim 23 is a storage medium claim that corresponds to program claim 17 and is rejected for the same reasons.

Regarding Claim 18,

Swift as modified by White discloses the program of claim 12, in addition, Swift discloses reproducing the content as a 3D stereoscopic image (Paragraphs 36-44); but does not explicitly disclose obtaining an encoded identification code from an image filter for viewing the content, wherein it is determined whether the content c an be reproduced by decoding the encoded identification code by using the key.

Cookson, however, discloses obtaining an encoded identification code from an image filter for viewing the content, wherein it is determined whether the content c an be reproduced by decoding the encoded identification code by using the key (Column 19, line 18 to Column 20, line 20; and Column 27, line 51 to Column 28, line 30). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to incorporate the video authorization system of Cookson into the stereoscopic media delivery system of Swift as modified by White in order to allow a piece of content to be authorized for use with particular

standards, aspect ratios, and the like, but not others, thereby enabling fine-grained control over which devices and users can access and view the content, in a way that is cryptographically secured, such that illegal content creation and use may be determined easily.

Regarding Claim 19,

Swift as modified by White and Cookson discloses the program of claim 18, in addition, Cookson discloses obtaining an unencoded identification code as well as the encoded identification code, wherein it is determined whether the content can be reproduced by decoding the encoded identification code by using the key and comparing the decoded identification code with the unencoded identification code (Column 19, line 18 to Column 20, line 20; and Column 27, line 51 to Column 28, line 30) ; and Swift discloses reproducing the content as a 3D stereoscopic image (Paragraphs 36-44).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JEFFREY D. POPHAM whose telephone number is (571)272-7215. The examiner can normally be reached on M-F 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571)272-3865. The fax phone

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jeffrey D Popham
Examiner
Art Unit 2137

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